

**WASHINGTON STATE
DEPT. OF HEALTH**

**REPORT ON COMMENTS
CHAPTER 246-314 WAC**

NOVEMBER 7, 2005

Chair**Bart Eggen**, Department of Health**Chad Beebe**, Department of Health (alternate)**Staff Liaisons****Kathryn Shore**

Department of Health

Allen Spaulding, Facilitator

Department of Health

Advisory Group Members:**Beaver Brinkman**

Careage, Inc.

Michael Kelly

Sacred Heart Medical Center

Randy Knighton

Knight Fire Protection, Inc.

David Pasqual

Franciscan Health Systems

David Riddle

Tri-Cities Chaplaincy

David Stroud

Regency South Inc.

Brenda Suiter

WSHA

Lance Talley

Chief Deputy State Fire Marshal

Mike York

Alliance Imaging

ADVISORY GROUP MEETING

The meeting began at 1:00 PM on Monday, November 7th, 2005, and was brought to order by Allen Spaulding, Rules Coordinator. There were 6 Advisory Group members present. Absent were: Eggen, Brinkman, Kelly, Stroud and Suiter. Bart Eggen's alternate was acting on his behalf.

Allen Spaulding explained the Accept in Principle option which allows the group to accept a proposal or comment in principle. This will establish a bookmark for those proposals or comments that the Department can consider later vs. a complete denial which essentially eliminates the thought or idea.

Allen Spaulding presented the agenda. The agenda consisted of 11 comments. He then reminded the members about the voting process which consisted of calling for a motion, second and then opening each for discussion. After discussion a vote is verbally tallied on the motion. Any member with a negative vote should briefly provide a reason or justification.

Randy Knighton suggested that there be a change to the Comment Form and it was agreed that in section 3 the box should be titled "Comment" in place of "Proposal" for easier reading.

Allen Spaulding thanked everyone for their participation and patience, and welcomed feedback now or via email. Dave Riddle requested a "lessons learned" to be sent out as to where the process goes from here. Allen stated that he would send out this information and requested feedback from it.

Allen Spaulding went on to explain the next steps from this point. The results of the meeting will be compiled into the "Report on Comments" (ROC). The Advisory Group's recommendations are to advise the department and the department retains final say in the rule changes. Then a CR102 packet is developed, using the ROP and ROC as the foundation for drafting/revising the existing rule. The packet is then routed internally for approval prior to the CR-102 filing and notice for a public hearing.

The meeting was adjourned at 2:25 PM.

Comment 001: Accept with Modification

Submitter: Chad E. Beebe
Section: 246-314-001
Comment on Proposal: 002
Recommendation: Revise text to read:

The purpose of this chapter is to establish fees to support the pre-design and subsequent review and approval of the health and residential care facility construction projects.

Substantiation: I think the parenthetical “ing’s” and “and’s” were intended to identify what the submitter was deleting from the section and not to be included in the final text.

Advisory Group Motion: Accept with modification. Remove the second “and”. Revise text to read:

The purpose of this chapter is to establish fees to support the pre-design and subsequent review and ~~and~~ approval of the health and residential care facility construction projects.

Number eligible to vote: 6
Ballot Results: Affirmative: 6 Negative: 0
Votes not returned or sustained: 0

Comment 002: Accept with Modification

Submitter: Chad E. Beebe
Section: 246-314-990(2)(b)
Comment on Proposal: 017
Recommendation: Keep all of the text in the advisory group action as revised except revise the text to read:

(b) One hundred twenty dollars (\$120.00) for any project involving a changed of approved use only.

Substantiation: This comment deletes the word “conversion” and adds “approved” so that the paragraph is consistent with other proposals that the group accepted. The term conversion creates a problem because in this context it is too generic. The group accepted a proposal for a complete description of what constitutes the term conversion (rop 031, 053 and 041) it should be deleted from here so that it doesn’t create additional confusion.

Advisory Group Motion: Accept with modification. Revise text to read:

(b) One hundred twenty dollars (\$120.00) for any project involving a changed of approved use only.

Number eligible to vote: 6
Ballot Results: Affirmative: 6 Negative: 0
Votes not returned or sustained: 0

Comment 003: Accept as Written

Submitter: Chad E. Beebe
Section: 246-314-990(2)
Comment on Proposal: 027
Recommendation: Revise text to read:

Revise “DOH” to “Department of Health.”

Revise “AASA” to “Department of Social and Health Services” in the first sentence.

Substantiation: These should both be spelled out and is more editorial in nature. Although AASA is more specific, I think more people could identify with DSHS. If we are citing two different agencies it’s probably best to refer to them at the same level, otherwise instead of DOH we should be referring to HSQA, which doesn’t make it clear to the user. Also, I think AASA has changed their name.

Advisory Group Motion: Accept as written.

Number eligible to vote: 6
Ballot Results: Affirmative: 6 Negative: 0
Votes not returned or sustained: 0

Comment 004: Accept as Written

Submitter: Chad E. Beebe
Section: 246-314-001(1)
Comment on Proposal: 0145
Recommendation: Add new text:

(#) “Certified” means facilities that must be certified to participate in Medicare/Medicaid programs and have physical plant minimum standards as required in the Federal Register.

Substantiation: The original proposal provided a definition for certified that was too broad. This clarifies that it is intended for a facilities (not certified systems) and only those that have physical plant requirements listed in the federal register. The federal register will typically contain information about which physical plant standards are applicable such as NFPA 101.

Advisory Group Motion: Accept as written.
Number eligible to vote: 6
Ballot Results: Affirmative: 6 Negative: 0
Votes not returned or sustained: 0

Comment 005: Accept as Written

Submitter: Chad E. Beebe
Section: 246-314-990(3)
Comment on Proposal: 022
Recommendation: Revise text to read:

“(3) Upon prior approval by the department the project sponsor may exclude from the “project cost” the cost for.....”

Substantiation Although I applaud the effort of the original proposal to remove an added layer of bureaucracy, my experience has been that even though we have explained what the expectations are for reduction of fees on this issue we, will still get requests that include the unistruct (structural), the electrical service, the shielding, the plumbing etc. All of which is different for each situation and needs to be reviewed by construction review staff. The local officials do not typically look at these systems to the level that CRS does. At least the advisory group should consider requiring those who are seeking a reduction in fee to submit an itemized list of equipment for the department to review along with their application and include language that gives the department the authority to return the application as not satisfactory.

Advisory Group Motion: Accept as written.

Number eligible to vote: 6
Ballot Results: Affirmative: 6 Negative: 0
Votes not returned or sustained: 0

Comment 006: Accept in Principle

Submitter: Chad E. Beebe
Section: 246-314-001(1)
Comment on Proposal: 011
Recommendation: The advisory group should accept original proposal in principle.

Substantiation: I think the advisory group erred when rejecting the original proposal. The proposal was simply to add a dashed line so the users wouldn't make the mistake of selecting the wrong plan review fee as often.

By rejecting the proposal the advisory group sent the message that they don't want dashes. Which I don't think is what the group really wanted to say. Instead they should have stated that it was beyond the scope of the group and supported it by accepting it in principle and leaving it up to the department to determine the best way to editorially make the correction.

Also note, the section is wrong in the report on proposals – it should be 246-314-990.

Advisory Group Motion: Accept in principle.

Number eligible to vote: 6
Ballot Results: Affirmative: 6 Negative: 0
Votes not returned or sustained: 0

Comment 007: Accept as Written

Submitter: Chad E. Beebe
Section: 246-314-001(4)(b)
Comment on Proposal: 008
Recommendation: Revise text to read as originally submitted:

(4)(b) All fixed and installed clinical equipment in the project; and

Substantiation: The addition of “non-clinical” ruins the whole intent of the proposal. We have had project sponsors submit projects with a really low cost estimate, when they are asked about it their excuse has been that they thought they could eliminate the non-clinical and clinical equipment such as the HVAC system, the generators, the fire alarm system, the sprinkler system, etc. – which are all non-clinical equipment. The intent of the inclusion of some of the clinical equipment is to accommodate for the time and research needed to review new technological advanced diagnostic / treatment equipment. Often, new technologies need time to review electrical, plumbing and structural requirements – this needs to be included in the costs for plan review.

Advisory Group Motion: Accept as written.

Number eligible to vote: 6
Ballot Results: Affirmative: 6 Negative: 0
Votes not returned or sustained: 0

Comment 008: Accept as Written

Submitter: Chad E. Beebe
Section: 246-314-001
Comment on Proposal: 004
Recommendation: Revise text to read:

(1) “Migrant Worker Housing” as defined under Chapter 246-359 WAC. Plan review fees shall be charged based on Chapter 246-359- WAC.

Substantiation: The rules for migrant work housing have rules for determining fees within 246-359.

Advisory Group Motion: Accept as written

Number eligible to vote: 6

Ballot Results: Affirmative: 6 Negative: 0

Votes not returned or sustained: 0

Comment 009: **Accept as Written**

Submitter: John Williams

Section: 246-314-090

Comment on Proposal: 051

Recommendation: New text:

Change original proposal to read:

(4) The department shall charge a flat fee of \$410.00 for each 8 man hours or fraction thereof for Technical Assistance. For Technical Assistance requiring travel, the department may increase the fee to include travel expenses.

Substantiation: Technical assistance often requires cross state travel and overnight stays. Travel costs alone can often exceed \$410.00.

Advisory Group Motion: Accept as written

Advisory Group Comments: The phrase “fraction thereof” might need to be improved on.

Number eligible to vote: 6

Ballot Results: Affirmative: 6 Negative: 0

Votes not returned or sustained: 0

Comment 010: **Deny**

Submitter: John Williams

Section: 246-314-010 (2) new subset

Comment on Proposal: 029

Recommendations: Revise text to read:

“Ambulatory Surgery Center” means any building or portion thereof whose occupancy is classified as a ambulatory healthcare occupancy as defined by the 2000 version of the National Fire Protection Associations document 101 Life Safety Code, or any building or portion thereof whose occupancy is recognized as a ambulatory healthcare occupancy as defined by Centers for Medicaid and Medicare.

Substantiation: The definition in proposal 16 does not include the text: “classified as a ambulatory healthcare occupancy as defined by the 2000 version of the National Fire Protection Associations document 101 Life Safety Code.” The modified text defines an ambulatory surgery center as a “facility” that is required to be

certified for participation in Medicare. This would create confusion because facilities other than ambulatory surgery centers are required to be certified for Medicare.

This is not an attempt to create language that requires the review of these types of facilities. The intent of adding this language in is to accommodate the voluntary review of facilities that are not licensed or certified by the department. Construction Review has been contacted by several of these type of facilities requesting voluntary review of either their existing or proposed physical plant. It is assumed that the public will make all attempts to meet the regulations and guidelines, provided that they are aware of them. The NFPA 101 Life Safety code is not a referenced standard within state for non licensed facilities. It is not enforced at the local level, or state level for non licensed ASC.

Advisory Group Motion: Deny.

Advisory Group Comments: The definition in Proposal 16 addresses this. Medicare/Medicaid is only required to be certified.

Number eligible to vote: 6

Ballot Results: Affirmative: 6 Negative: 0

Votes not returned or sustained: 0

Comment 011: **Accept as Written**

Submitter: John Williams

Section: 246-314-010

Comment on Proposal: 045

Recommendations: Add new text:

Amend the proposal to add subset 8(e) as follows:

Or, to provide technical assistance to those parties, constructing projects that are not required to be licensed or certified in the State of Washington, who voluntarily wish to comply with the regulations and guidelines that are enforced by the department in the interest of safety or best practices.

Substantiation: This would allow Construction Review Services the opportunity to provide technical assistance to those parties that are not required to be licensed or certified. For example, plastic surgeons who are not part of a licensed facility or certified surgery center. This would also accommodate facilities that are being built as unlicensed/certified, but may wish to seek licensure/certification in the future.

Advisory Group Motion: Accept as written

Number eligible to vote: 6

Ballot Results: Affirmative: 6 Negative: 0

Votes not returned or sustained: 0